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09/889,022	03/25/2002	Toshihiro Morita	275729US6PCT	4603
22850 7590 09/08/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER GARG, YOGESH C	
			ART UNIT 3625	PAPER NUMBER
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TECHNOLOGY CENTER 3600

In re Application of:	:	
TOSHIHIRO MORITA, et al.	:	
Application No. 09/889,022	:	DECISION ON PETITION
Attorney Docket No.: 275729US6PCT	:	FILED UNDER
Filed: March 25, 2002	:	37 C.F.R. 1.181
For: INFORMATION PROCESSOR AND	:	
PROCESSING METHOD, AND	:	
INFORMATION STORAGE MEDIUM	:	

This is in response to Applicant's petition filed August 18, 2008 to compel the Examiner to consider references "AS" and "AT" filed with the Information Disclosure Statement (IDS) of July 10, 2001.

The petition alleges that the IDS filed July 10, 2001 is in compliance with 37 CFR 1.97 and 1.98, and particularly is in compliance with 37 CFR 1.98(a)(3) since the references cited therein were listed as being relevant on the International Search Report.

The petition is **GRANTED**.

History

A review of the file reveals that the Examiner has denied consideration of references "AS" and "AT" and reasoned that the IDS had failed to comply with 37 CFR 1.98(a)(3) because Applicant had failed to provide a concise explanation of the relevance of these references (see Office correspondence mailed July 1, 2008). It is noted that the provided copies of references "AS" and "AT" were in a non-English language.

Authority

37 CFR 1.98(a)(3) may be satisfied by the provision of:

"[a] concise explanation of the relevance, as it is presently understood by the individual designated in § 1.56(c) most knowledgeable about the content of the information, of each patent,

publication, or other information listed that is not in the English language. The concise explanation may be either separate from applicant's specification or incorporated therein." (37 CFR 1.98(a)(3)(i)).

Further, MPEP 609.04(a)(III) states:

"Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office.

This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report." (emphasis added)

Discussion

A review of the file reveals that the IDS filed July 10, 2001 included an English-language version of International Search Report (ISR) for International application No. PCT/JP00/07973 (the International application from which this National Stage application takes priority). Such ISR listed both references identified as "AS" and "AT" in the IDS filed July 10, 2001 and included at least an "X", "Y", or "A" indication associated with each. The IDS further included legible copies of each of these references and a statement that "[the enclosed copies of the cited publications were] cited in the International Search Report of International Application No. PCT/JP00/07973". Accordingly, the IDS is in compliance with 37 CFR 1.98(a)(3)(i).


It is also noted (upon a thorough review of the file) that the IDS filed July 10, 2001 is fully compliant with 37 CFR 1.97 and 1.98.

Summary:

The petition is **GRANTED**.

The file has been electronically forwarded to the Examiner for consideration of references "AS" and "AT" filed with the IDS of July 10, 2001 and for any further action consistent with this decision.

Any questions dealing with this decision should be directed to Jeffrey A. Smith at (571) 272-6763.



Wynn Coggins, Director
Patent Technology Center 3600
(571)-272-5350

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